
Contract Requirements

Termination upon Notice

Either party may terminate this Contract, without penalty or incurring of further obligation, upon fifteen (15) days written notice. The Contractor shall be entitled to compensation for services or goods provided prior to and including the termination date.

Termination by Early Childhood Iowa Due to Lack of Funds or Change in Law

- a. Early Childhood Iowa shall have the right to terminate this Contract without penalty by giving sixty (60) days written notice to the Contractor as a result of any of the following:
 - Adequate funds are not appropriated by the legislature to allow Early Childhood Iowa to operate as required and to fulfill its obligations under this Contract; or
 - Funds are de-appropriated, not allocated, or if funds needed by Early Childhood Iowa, at Early Childhood Iowa's sole discretion, are insufficient for any reason; or
 - Early Childhood Iowa's authorization to conduct business is withdrawn or there is a material alteration in the programs Early Childhood Iowa administers; or
 - Early Childhood Iowa's duties are substantially modified.
- b. Early Childhood Iowa will make reasonable efforts to secure funding in an effort to pay the Contractor under the terms of this Contract. If any appropriation to cover the costs of this Contract becomes available within sixty (60) days subsequent to termination under this clause, Early Childhood Iowa agrees to re-enter the Contract with the Contractor under the same terms as the original Contract, provided the Contractor is still available to provide the services.
- c. Remedies of the Contractor In the event of non-appropriation: In the event of termination of this Contract due to lack of funds or change in law, the sole remedy of the Contractor shall be payment for services completed prior to termination.

Immediate Termination By Early Childhood Iowa. The following will be cause for immediate termination of the Contract upon written notice by Early Childhood Iowa:

- a. In the event the Contractor is required to be certified or licensed as a condition precedent to providing services, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- b. Early Childhood Iowa determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, a client or client's life, health or safety to be

jeopardized;

- c. The Contractor fails to comply with confidentiality laws or provisions.

Delay or Impossibility of Performance by either party shall not be considered to be in default under this Contract if performance is delayed or made impossible by an act of God. The delay or impossibility must be beyond the control and without the fault or negligence of the defaulting party. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and conditions of this Contract.

Insolvency or Bankruptcy. In the event the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state related to insolvency or the protection of rights of creditors, Early Childhood Iowa may, at its option, terminate this Contract. In the event Early Childhood Iowa elects to terminate the Contract under this provision, it shall do so by sending written notice to the Contractor.

Upon Expiration or Termination of this Contract, the Contractor Shall:

- a. Deliver to Early Childhood Iowa within twenty (20) calendar days after such expiration or termination all data (and data base definitions), records, information and items, including partially completed plans, drawings, data, documents, surveys, maps, reports and models which belong to Early Childhood Iowa;
- b. Comply with Early Childhood Iowa's instructions for the timely transfer of active files and work being performed by Contractor under this Contract to Early Childhood Iowa;
- c. Protect and preserve property in the possession of the Contractor in which Early Childhood Iowa has an interest;
- d. Stop work under this Contract on the date specified in any notice of termination provided by Early Childhood Iowa;
- e. Submit to Early Childhood Iowa invoices substantiating all charges for work performed by Contractor prior to the effective date of expiration or termination;
- f. Cooperate in good faith with Early Childhood Iowa, its employees and agents during the transition period between the notification of termination and the substitution of any replacement Contractor.

INDEMNIFICATION

The Contractor agrees to defend, indemnify and hold the State of Iowa and Early Childhood Iowa, and their officers, agents and employees, harmless from any and all liabilities, damages, settlements, judgments, costs and expenses,

including reasonable attorney's fees of the Attorney General's Office, and the costs and expenses and attorney fees of other counsel required to defend the State of Iowa, Early Childhood Iowa or their officers, agents or employees related to or arising from:

- A. Any violation of this Contract; or
- B. Any negligent or intentional acts or omissions of the Contractor, its officers, owners, employees, agents, board members, contractors or subcontractors or any other person in connection with the goods or services provided under this Contract; or
- C. Claims for infringement of patents, trademarks, trade secrets, or copyrights, or other intellectual property arising under this Contract; or
- D. The Contractor's performance or attempted performance of this Contract; or
- E. Any failure by the Contractor to comply with all local, state and federal laws and regulations.
- F. Any failure by the Contractor to make all reports and any payments required to conduct business in the State of Iowa, including, but not limited to, Federal and State withholding; taxes; and other fees or costs required of the Contractor

INSURANCE

- A. The Contractor, and any subcontractors performing the services required under this Contract, shall maintain in effect, with insurance companies authorized to do business in the State of Iowa, at its own expense, insurance covering its work. The Contractor's insurance shall, among other things, insure against any loss or damage resulting from or related to the Contractor's performance of this Contract. All such insurance policies shall remain in full force and effect for the entire life of this Contract and shall not be canceled or changed except after thirty days written notice to Early Childhood Iowa.

Unless otherwise requested by the State, the Contractor shall, at its sole cost, obtain the insurance coverage(s) set forth below:

Type of Insurance	Limit	Amount
General Liability	Per incident	\$1 million
Automobile Liability, including any auto, hired autos and non owned autos	Per incident	\$1 million
Workers' Compensation	<ul style="list-style-type: none">• As required by Iowa law	
Professional Liability Insurance	Per incident	\$500,000

All insurance policies required by this Contract shall provide coverage for all claims arising from activities occurring during the term of the policy, regardless of the date the claim is filed or expiration of the policy.

The Contractor and any of its subcontractors performing work on this project shall submit certificates of insurance described above at the time of execution of this Contract. The receipt of such certificates does not constitute approval of the coverage contained on the certificates, and the Contractor remains responsible for determining that its insurance coverage meets each and every requirement of this Contract. Acceptance of the insurance certificates by Early Childhood Iowa shall not act to relieve the Contractor of any obligation under this Contract.

CONTRACT ADMINISTRATION

- A. **Independent Contractor.** The status of the Contractor, and all subcontractors, shall be that of an independent contractor. Early Childhood Iowa shall not provide the Contractor with office space, support staff, equipment or tools, or supervision beyond the terms of this Contract. The Contractor shall be responsible for payment of all taxes, fees and charges when due.
- B. **Compliance with Equal Employment and Affirmative Action Provisions.** The Contractor shall comply with all provisions of federal, state and local laws, rules and executive orders which apply to insure that no client, employee or applicant for employment is discriminated against because of race, religion, color, age, sex, national origin, or disability. The Contractor, if requested, shall provide state or federal agencies with appropriate reports as required to insure compliance with equal opportunity laws and regulations. The Contractor shall insure that its employees, agents and subcontractors comply with the provisions of this clause.
- C. **Compliance with Laws and Regulations.** The Contractor, its employees, agents and subcontractors, shall comply with all applicable state and federal laws, rules, ordinances, regulations and orders. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work to be performed under this Contract. The Contractor shall have and implement written policies and procedures that are in compliance with Iowa law for reporting abuse of children and dependent adults and for maintaining the confidentiality of such information. The Contractor shall ensure that its employees, agents, and subcontractors comply with the provisions of this clause.
- D. **Authorization.** Each party to this Contract represents and warrants to the other that:
 - a It has the right, power and authority to enter into and perform its obligations under this Contract.
 - b It has taken all requisite action (corporate, statutory, or otherwise) to

approve execution, delivery and performance of this Contract, and this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

- E. **Successors in Interest.** All the terms, provisions, and conditions of this Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.
- F. **Cumulative Rights.** The various rights, powers, options, elections and remedies of either party provided in this Contract, shall be construed as cumulative and no one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, or shall in any way affect or impair the right of either party to pursue any other equitable or legal remedy to which either party may be entitled as long as any default remains in any way unremedied, unsatisfied, or undischarged.
- G. **Severability.** If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.
- H. **Time is of the Essence.** Time is of the essence with respect to the performance of the terms of this Contract.
- I. **Choice of Law and Forum.** The terms and provisions of this Contract shall be construed in accordance with the laws of the State of Iowa. Any and all litigation or actions commenced in connection with this Contract shall be brought in an appropriate Iowa forum.
- J. **Use of Third Parties.** Early Childhood Iowa acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor's obligations under this Contract. All subcontracts shall be subject to prior approval by Early Childhood Iowa. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all services performed under this Contract. All restrictions, obligations and responsibilities of the Contractor under this Contract shall also apply to the subcontractors. Early Childhood Iowa shall have the right to request the removal of a subcontractor from the Contract for good cause.
- K. **Third Party Beneficiaries.** There are no third party beneficiaries to the Contract. This Contract is intended only to benefit Early Childhood Iowa and the Contractor.
- L. **Not a Joint Venture.** Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract. If

- the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, and for any default of such activities and obligations.
- M. **Assignment and Delegation.** This Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party. For purposes of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.
- N. **Solicitation.** The Contractor warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.
- O. **Amendments.** This Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to this Contract must be fully executed by both parties.
- P. **Additional Provisions.** The parties agree that if an Addendum, Attachment or Exhibit is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.
- Q. **Confidentiality.** Contractor shall not use confidential information for any purpose other than carrying out Contractor's obligations under this Contract. The Contractor shall establish and enforce policies and procedures for safeguarding the confidentiality of such data.
- R. **Records Retention and Access.** The Contractor shall maintain books, records, and documents which sufficiently and properly document and explain all charges billed to Early Childhood Iowa throughout the term of this Contract for a period of at least five years following the date of final payment or completion of any required audit begun during the aforementioned five years, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the Auditor of the State of Iowa or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices, payments, services provided or any other documentation or materials pertaining to this Contract, wherever such records may be located.
- S. **Express Warranties.** The Contractor expressly warrants, within the standards of care used within the industry, all aspects of the goods and services provided or used by it in the performance of this Contract.
- T. **Replacement of Contractor's Staff.** The Contractor will remove and replace personnel it assigns to perform services under this Contract if Early Childhood

Iowa has a reasonable objection based on performance and/or interpersonal relationship issues and is not requesting the removal for arbitrary reasons. In lieu of removing an individual about whom Early Childhood Iowa has objections, the Contractor may reassign the individual to another role in performing the Contract, subject to the approval of Early Childhood Iowa, which it will not withhold unreasonably.

- U. **Headings or Captions.** The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.
- V. **Integration.** This Contract represents the entire Contract between the parties and neither party is relying on any representation that may have been made which is not included in this Contract.
- W. **Supersedes Former Contracts or Agreements.** This Contract supersedes all prior Contracts or Agreements between Early Childhood Iowa and the Contractor for services and products provided in connection with this Contract.
- X. **Counterparts.** The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.
- Y. **Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of Early Childhood Iowa and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.
- Z. **Obligations Beyond Contract Term.** This Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Contract. All obligations of Early Childhood Iowa and the Contractor incurred or existing under this Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Contract.
- AA. **Notices.** Notices under this Contract shall be in writing and delivered to the representative of the party to receive notice (identified below) at the address of the party to receive notice as it appears below or as otherwise provided for by proper notice hereunder. The effective date for any notice under this Contract shall be the date of mailing which may be effected by certified U.S. Mail, return receipt requested, with postage prepaid thereon or by recognized overnight delivery service, such as Federal Express or UPS:

Exhibit A

CERTIFICATION OF COMPLIANCE WITH PRO-CHILDREN ACT OF 1994

Contractors must comply with Public Law 103-227, Part C Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where WIC coupons are redeemed.

The Contractor further agrees that the above language will be included in any subawards that contain provisions for children's services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1000 per day.

Signature: _____

Title: _____

Date: _____

Exhibit B

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED
TRANSACTIONS**

By signing and submitting this Contract, the Contractor is providing the certification set out below:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government the Board or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The Contractor shall provide immediate written notice to the person to whom this Contract is submitted if at any time the Contractor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, contract, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Contract is submitted for assistance in obtaining a copy of those regulations.
4. The Contractor agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 2 CFR 180, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Board or agency with which this transaction originated.
5. The Contractor further agrees by submitting this Contract that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. A participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 2 CFR 180, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the Board or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS**

(1) The Contractor certifies, by submission of this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(2) Where the Contractor is unable to certify to any of the statements in this certification, such Contractor shall attach an explanation to this Contract.

(Signature)

(Date)

(Title)

Exhibit C

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

A. No federal appropriated funds have been paid or will be paid on behalf of the Sub-Grantee to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, an officer or employee of the Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant loan or cooperative agreement.

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, or an employee of a Member of Congress in connection with this Contract, grant, loan, or cooperative agreement, the applicant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C.A. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: _____

Title: _____

Organization: _____

Date: _____